

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2735 OF 2025

Vaishnavi Deepak Pawar

Petitioner

versus

The State of Maharashtra and others

Respondents

Mr.Ganesh Gupta with Mr.Madan Khansole, Mr.Shreyash Nanaware, Mr.Surya Gupta i/by Mr.Sahil Ghorpade, Advocates for Petitioner.

Mr.O.A.Chandurkar, Additional G.P with Smt.V.S.Nimbalkar, AGP for State.

CORAM : AMIT BORKAR, J.

DATE : 27th February 2025

PC :

1. The present petition assails an order dated 17 December 2024 passed by the Learned Chief Judicial Magistrate, Esplanade, Mumbai, in the exercise of powers under Rule 107(2)(D-1)(VI) of the Maharashtra Co-operative Societies Rules.

2. This Court, in the case of *Amit Jori vs. State of Maharashtra & Ors.* In (WRIT PETITION NO.1331 OF 2025) dated 5.2.2025 (hereinafter "*Amit Jori*"), has had the occasion to interpret the precise nature and scope of the power vested in the Chief Judicial Magistrate (CJM) or the District Court under Rule 107(2)(D-1)(VI) of the Rules. In *Amit Jori*, this Court categorically held that such power is executory in nature rather than adjudicatory or discretionary. The function of the CJM or

District Court, while exercising this power, is confined to effectuating the recovery process initiated by the Special Recovery Officer under the Act. By its very nature, the exercise is intended to assist in the implementation of statutory recoveries and does not extend to entertaining or adjudicating disputes on the merits that may subsist between the parties inter se.

3. In arriving at this conclusion, reliance was placed on judicial precedents underscoring the limited role of courts in aiding statutory authorities to enforce recoveries under special enactments. The Supreme Court has, in analogous contexts, observed that where a statute confers a specific mechanism for enforcement or recovery—particularly in special legislations like co-operative societies, taxation, or revenue laws—the jurisdiction of the executing authority is circumscribed by the four corners of the enactment.

4. Guided by the principle delineated in *Amit Johri*, this Court finds no error or illegality in the impugned order passed by the Learned CJM on the application filed by the Special Recovery Officer. The CJM's role was to facilitate the enforcement of the recovery certificate or orders mandating recovery, and not to adjudicate upon the veracity or merits of any underlying dispute. Thus, I am unable to find any substantial ground to interfere with the impugned order, which is prima facie within the domain of the statutory power conferred under Rule 107(2)(D-1)(VI).

5. The impugned order essentially pertains to the attachment of the property in question. In view of Rule 107(19) of the Rules, the Petitioner is not without recourse. The said sub-rule lays down the mechanism for a party aggrieved by attachment orders to raise objections or seek appropriate relief. If the Petitioner perceives any grievance with the manner or grounds of attachment, it shall be open to them to pursue the remedy provided under Rule 107(19).

6. In the light of the foregoing discussion, I see no reason to disturb the order under challenge. The Petitioner retains the liberty to pursue such remedies as may be available in law, including the remedy contemplated under Rule 107(19) of the Rules.

7. Accordingly, the petition is disposed of, with no order as to costs.

(AMIT BORKAR, J.)

MST